**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN**

**THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929**

**WP(C).No. 18789 of 2004(J)**
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**PETITIONER:**
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**MOTILAL MEENA, HOUSE NO.45 B,**
**WARD V, BMC NAGAR, IRUMPANAM,**
**ERNAKULAM DISTRICT, PIN-682 309.**

**BY ADV. SRI.S.GOPAKUMARAN NAIR**
**SRI.M.CHANDRA BOSE**

**RESPONDENTS:**
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1. **MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR, PRIYADARSINI HILLS P.O. ATHIRAMPUZHA, KOTTAYAM.**

2. **CONTROLLER OF EXAMINATIONS MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS P.O. ATHIRAMPUZHA, KOTTAYAM.**

3. **VICE CHANCELLOR, MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS, P.O. ATHIRAMPUZHA, KOTTAYAM.**

4. **THE PRINCIPAL, GOVERNMENT LAW COLLEGE, ERNAKULAM.**

**BY GOVERNMENT PLEADER for R4**
**SRI.V.K.MUHAMMAD, SC, M.G.UTY.**
**SRI.T.A.SHAJI, SC, M.G.UTY for R1 to R3**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

*KSS*

**WPC.NO.18789/2004 J**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF THE B.A.DEGREE OF THE AGRA UNIVERSITY.**

**EXT.P2:** **COPY OF THE M.A.DEGREE OF THE AGRA UNIVERSITY.**

**EXT.P3:** **COPY OF THE B.ED. DEGREE CERTIFICATE OF THE AGRA UNIVERSITY.**

**EXT.P4:** **COPY OF THE MBA DEGREE OF INDIRA GANDHI NATIONAL OPEN UNIVERSITY (IGNOU).**

**EXT.P5:** **COPY OF THE MARK LIST OF B.A.DEGREE.**

**EXT.P6:** **COPY OF THE MIGRATION CERTIFICATE FROM THE AGRA UNIVERSITY.**

**EXT.P7:** **COPY OF THE REJECTION MEMO DTD. 20/11/2002.**

**EXT.P8:** **COPY OF THE HALL TICKET ISSUED FOR 3 YEAR LL.B. EXAMINATION (1ST YEAR AND 2ND YEAR).**

**EXT.P9:** **COPY OF THE HALL TICKET ISSUED FOR 3 YEAR LL.B. EXAMINATION (2ND YEAR AND 3RD YEAR).**

**EXT.P10;** **COPY OF REPRESENTATION ADDRESSED TO CONTROLLER OF EXAMINATION.**

**EXT.P11:** **COPY OF THE REPRESENTATION ADDRESSED TO VICE CHANCELLOR.**

**/TRUE COPY/**

**P.S.TO JUDGE**

*KSS*

**THOTTATHIL B. RADHAKRISHNAN, J.**

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**WP(C).No.18789 of 2004-J**

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Dated this the 6th day of September, 2007.

**JUDGMENT**

1. The petitioner was a student of the three year LL.B. (Evening) Course in the Government Law College, Ernakulam during 1993-'96. He had passed all examinations of the LL.B. Course, going by the statement filed on behalf of the respondents. His mark lists, provisional certificate and degree certificate are yet to be issued on the ground that the first respondent University has not recognized the B.A.(Private) of the Agra University and therefore, eligibility certificate could not be issued. The application of the petitioner for eligibility certificate stands rejected as per Ext.P7.

2. The writ petition is filed seeking to quash the decision

contained in Ext.P7 and for a declaration that the petitioner is entitled to get his mark lists and degree certificate of the LL.B. Degree examination.

3. Admitting that he has undergone the course and that he had passed all the examinations for LL.B. Degree, the plea of the University, in defence, is that the degree awarded by the Agra University, to the petitioner, after undergoing private study, is not recognized by it. The University further contends that the petitioner had not applied for eligibility certificate though a candidate who has a degree from outside the State of Kerala has to do so within 30 days of admission, which requirement was widely publicized through the college calender. In short, the main thrust of the contentions of the University is that a degree obtained from the Agra University by studying privately, i.e., without attending an affiliated college, is insufficient for a candidate to be admitted for the LL.B. Degree Course in the Mahatma Gandhi University.

4. The petitioner has filed a reply affidavit pleading that he was never told about the stand of the University regarding the private study he had undergone leading to Ext.P1 B.A. Degree and that the prospectus did not contain any such term. He further pleads that he had never suppressed any material fact from the University authorities or the Principal of the College and that having undergone the LL.B. Course and having been repeatedly admitted for the University examinations every year and still further, having passed the LL.B. examination, it would be unjust and unreasonable to deny him the benefit of the fruits of his labour of attending the course for three years and studying the subjects by putting in effort to gain a Degree in Law.

5. Sri.M.Chandra Bose, the learned argued for the petitioner contended that the materials on record would show that the petitioner has a consistent good academic graph and that he was admitted to the Government Law College and permitted to write the examinations, the University issuing hall tickets every year. It is argued

that even after the University states that he has passed the examination, it would be unjust to contend that he is not eligible to receive the marks card and the degree and that the situation in hand is a demonstrable case of promissory estoppel where the University cannot be permitted to turn round and deny the petitioner, the degree. Reliance is placed on the judgments of the Apex Court in **Shri Krishan v. Kurukshetra University** (AIR 1976 SC 376) and **Sanatan Gauda v. Berhampur University** [(1990) 3 SCC 23].

6. The learned standing counsel for the University submitted that private study degrees are not recognized and the University cannot be found fault with for any wrong that could have been committed by the Principal of the College. He has relied on the judgment dated 30-7-2007 in WP(C).No.18901/2007.

7. The materials on record show that the petitioner obtained B.A. Degree from the Agra University in Second Division in 1985 with General English, English

Literature, Economics and Sociology as the subjects. He obtained M.A. Degree in Economics with Second Class in 1988 from that University. Both these degrees were obtained by him by appearing for the examinations as private candidate. Thereafter, he obtained Ext.P3 Degree of Bachelor of Education from Agra University with Second Class in Theory and First Class in Practicals in 1991 after studying in the Raja Balwant Singh College, Agra. Obviously, that was not a private study. Thereafter, he obtained the Degree of Master of Business Administration from IGNOU. When the petitioner joined the Government Law College, Ernakulam, the Agra University had issued Ext.P6 migration certificate. The petitioner, applied for, was admitted and underwent the three year LL.B. Course in the Government Law College (Evening), Ernakulam during 1993-96 and passed all the examinations for being awarded the LL.B. Degree. Exts.P8 and P9 are the hall tickets (4 in number) issued to the petitioner by the Controller of Examinations of the University.

8. Though the Mahatma Gandhi University Act, 1985, hereinafter referred to as the "Act", came into force with effect from 2nd October, 1983 and was published in the gazette dated 17-4-1985, the Mahatma Gandhi University Statutes, 1997 came into force only with its publication in the gazette on 21-3-2000. Therefore, by the operation of the provision in Section 99(2) of the Act, all Statutes and Ordinances made under the Kerala University Act, 1974, which were in force, continued to apply until they were replaced by Statutes and Ordinances made under the Act. This means that the provisions of the Kerala University First Statutes, 1977 regulated the course of study, while the petitioner was a student of the Law College during 1993-96. Chapter 18 of the Kerala University First Statutes, 1977 relates to the Faculty of Law. Statute 3 therein provides that no candidate shall be eligible for the Degree of Bachelor of Laws (LL.B.) unless he has taken a Degree of this University or a Degree of any other University accepted by the University as equivalent thereto. Therefore, a person, who possesses a degree of another University

which is accepted by the first respondent University as equivalent to its degree, is eligible to undergo the course leading to the Degree of Bachelor of Laws. The case of the first respondent University is only that it has not recognized degrees awarded by the Agra University to private study candidates. This means that it recognizes the degrees awarded by the Agra University (now re-named Dr.Ambedkar University), after undergoing a course of study in a college. Unlike in Statute 2 in Chapter 18 of the Mahatma Gandhi University Statutes, 1997, as they stand now, the provision in Statute 3 of the Kerala University First Statutes, 1977 does not specifically state that the degree should be a Degree of Bachelor of Arts or Bachelor of Science or Bachelor of Commerce. The provision in Statute 3 in Chapter 18 of the Kerala University First Statutes, 1977, is only that, as already noticed, the candidate should have taken a degree. This means that a candidate with a degree awarded by a University which is recognized as equivalent to a degree of the Kerala University or the Mahatma Gandhi University, was sufficient for the

purpose of admission to LL.B. Course at the relevant time. If that were so, it is a matter of record that the petitioner had obtained the Degree of Bachelor of Education from the Agra University after undergoing the course of study in Raja Balwant Singh College, Agra. Therefore, that is not a degree granted on private study. Hence, the possession of that degree is sufficient to satisfy the qualification prescribed by Statute 3 in Chapter 18 of the Kerala University First Statutes, 1977. It is true that the writ petitioner had not projected such a case before the University, while applying for admission. He had bona fide acted on the basis of his B.A. Degree, though the fact remained that he had obtained the B.Ed. Degree in 1991 itself, while he underwent the LL.B. Course during 1993-96. Therefore, he had possessed the B.Ed. Degree, while he applied for admission for the LL.B. Course. Under such circumstances, the petitioner's claim for admission to the LL.B. Course and for awarding degree for the examinations which he has already passed, has necessarily to be acted upon by taking into consideration

Ext.P3 B.Ed. Degree also. Justice in the situation has to be provided by doing so.

9. In support of the view that has been taken above, I may also refer to the judgment of this Court in **Bose William v. State of Kerala** [2002 (2) KLT 34].

10. Now, I shall consider the applicability of the precedents referred to on behalf of the petitioner. **Shri Krishan** (supra) was a case where the Apex Court noticed that before issuing the admission card to a student for Part I Law Examination, it was the duty of the University authorities to scrutinize the admission form to find out whether everything was in order. It was also held to be responsibility of the Head of the Department of Law to ensure that all requirements have been satisfied. That was a case where the candidate was ultimately refused to be awarded the degree on the ground that there was a shortage of attendance. **Sanatan Gauda** (supra) was also decided in favour of the candidate for a Law course applying the principle of promissory estoppel against the

University. It was stated that while the University let the student to study and undergo the examination, it was impermissible for the University to punish the students for the negligence of the Principal or the University authorities. It was held that the University was estopped from refusing to declare the results of the appellant's examinations. That was an instance where the minimum qualifying mark was in dispute on the basis of an interpretation of the rule. The aforesaid decisions do not directly govern the issue regarding the recognition of the degree awarded by another University on the basis of which the student was admitted for the course. But the core principle of justice, equity and equality before law that has been culled out by the Apex Court, needs to be recalled and that is that the students having secured admission bona fide and not being accused of any fraud and having undergone the course and have passed through the University examinations should not be put to peril of such nature after a considerable period of his youth has been spent, which may cost him several years of his life.

11. On to the facts of this case, it could be seen that the University does not dispute that the petitioner applied by producing all relevant materials, including his degree certificates. He had joined a Government College. He underwent the course by attending classes. The College had cleared him for the University examinations since he had the requisite attendance. The University issued admit cards for the University examinations every successive year during the course. He sat for the examinations and even according to the University, he has passed in all the papers. Ext.P7 is issued only in November, 2002 acting on an application dated 3-8-2001 made by the petitioner for eligibility certificate. He has categorically stated in paragraph 3 of the writ petition that after passing the LL.B. Degree examinations, he moved the University for provisional certificate and was then informed that the application for provisional certificate could not be accepted without eligibility certificate. He has pleaded that he was directed to apply for eligibility certificate and it was accordingly that he

made the application that led to the impugned Ext.P7. I am, in no way, persuaded to disbelieve the version of the petitioner regarding that. Under such circumstances, the learned counsel for the petitioner is right in arguing that the principles of promissory estoppel would also apply to the case in hand, in favour of the petitioner and the University is estopped from refusing to award LL.B. Degree to the petitioner and issue mark lists and the degree certificate.

12. In the result, this writ petition is allowed issuing the following directions:

(a) The University will take up the case of the petitioner for regularizing the admission on the basis of what is stated above, by taking also into consideration Ext.P3 Degree in Bachelor of Education awarded to the petitioner by the Agra University (since Dr. Ambedkar University) and will issue eligibility certificate in the light of the declarations of law as made in this judgment.

(b)Following the aforesaid, the mark lists and the LL.B. degree certificate would be issued to the petitioner within a period of four months from the receipt of a copy of this judgment.

**THOTTATHIL B. RADHAKRISHNAN,**
**JUDGE.**

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